

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

**PUBLIC UTILITIES
COMMISSION**

**RE: Investigation of Central Maine
Power Company Metering, Billing
and Customer Communication
Issues**

Docket No. 2018-00052

**COMMENTS OF THE OFFICE
OF THE PUBLIC ADVOCATE**

January 4, 2019

The Office of the Public Advocate (OPA) submits the following comments in response to the Procedural Order dated December 20, 2018. In this Order, the Hearing Examiner seeks comments as to whether the Final Report of the Forensic Audit of CMP's Metering and Billing System prepared by the Liberty Consulting Group (Liberty Report) should be (a) considered as part of the Commission's current CMP Rate Investigation, Docket No. 2018-00194; (b) should be considered as part of a follow-up investigation; or (c) should be considered through some other vehicle. The OPA responds to the Hearing Examiner's inquiry by stating that the Commission should consider the Liberty Report as part of a follow-up investigation. For the reasons set forth below, we urge the Hearing Examiner not to incorporate the investigation into CMP's rate case.

The Commission opened this summary investigation because of thousands of complaints received from CMP's customers following the cutover to the new Customer Information System (CIS or "SmartCare") in late October 2017. The Commission engaged the services of Liberty to conduct the forensic audit of CMP's metering and

billing systems, as well as its customer communications surrounding the cutover to the new system. The OPA sought the opportunity to meet with Commission staff and with Liberty to receive periodic updates regarding the progress of the audit.¹ The OPA engaged the services of its own consultant, BerryDunn, to assist in those efforts. In response, the Commission issued a letter stating that it would be receiving periodic updates from Liberty, and that after submission of each report, “at the OPA’s option, the Staff will meet with the OPA for a follow-up discussion and questions regarding information provided in the written reports.”² In September of 2018, the Public Advocate requested the opportunity to provide input to Liberty with the support of BerryDunn to enhance the audit process.³ The Commission denied this request in a letter explaining that:

Given the requirements of 35-A M.R.S. § 113 for an independent audit, and the fact that the results of the audit may well be an issue in either the current rate investigation of CMP (Docket No. 2018-00194) or as part of a formal investigation initiated pursuant to 35-A M.R.S. § 1303(2), both of which would be adjudicatory proceedings to which the OPA would be a party and we assume BerryDunn would be witnesses, the Commission does not believe that the collaborative approach suggested in your letter would be appropriate or tenable.⁴

The OPA had no choice but to accept the Commission’s decision to keep the audit proceedings separate. But after a year of unanswered questions and turmoil for thousands of CMP’s customers, the need to engage in a full and robust investigation is more urgent than ever.

¹ See Letter of Public Advocate Barry J. Hobbins to Harry A. Lanphear, Administrative Director of the Maine PUC (June 11, 2018), filed in the Commission’s CMS system.

² Letter of Harry A. Lanphear to Public Advocate (June 19, 2018), filed in CMS.

³ Letter of Public Advocate to Harry Lanphear (Sept. 19, 2018), filed in CMS.

⁴ Letter of Charles Cohen, Deputy General Counsel of Maine PUC (Sept. 21, 2018), filed in CMS.

The Liberty Report makes clear that the problems that resulted from CMP's implementation of the SmartCare system were numerous, far-reaching, and serious for thousands of CMP's customers. The problems identified raise significant issues that require further investigation. Such an investigation must be conducted outside the bounds of the rate case, which has a schedule unique to that case and does not provide adequate time for conducting the necessary investigation of the problems with CMP's billing system.

Listed below are a few of the questions and issues the OPA and its consultant, BerryDunn, have identified in their initial review of the Liberty Report:

- The report identified anomalies in several CMP meters that may cause the meters to record too much or too little usage, which could result in inaccurate billing. It is not clear from the report how many customers are affected by these anomalies and whether these customers have been notified of the potential issue with their meters.
- Liberty has not explained its testing methodology or assumptions it used for the random sampling it performed to complete its work.
- Liberty extracted data from 430 randomly selected sample billing accounts and compared the data to corresponding archived bills in the new system. The report states that Liberty did not have the ability to test 24 of those accounts because there were not billed during the test period. It is not clear why Liberty did not replace those accounts with replacement accounts or expand the test period to match the data extracted to bills in subsequent months.
- Liberty's overall conclusion was there were no specific issues identified, although it noted some variances that were identified reflected billing errors. These variances may appear insignificant over the entire CMP account population, but they are very likely significant to individual customer accounts, which may number in the thousands. The report does not discuss what these billing errors were, how these billing errors were identified or if the billing errors have been corrected.

- It is not clear from the report whether Liberty investigated the original 2,290 customers with high bill complaints or if it determined what the specific billing issues were or if they have been resolved.

In addition, the Liberty Report provides a troubling description of the process that CMP employed in the rollout of the new SmartCare system. The OPA and its consultant have several questions to pose to Liberty, and to CMP, regarding information in the report, including the following indications of poor preparation in the lead-up to the go-live date as well as its aftermath:

- Reduction of data validation efforts, which may indicate inaccurate data was fed into the new billing system;
- Parallel testing of significant systems, including billing, overlapping with code changes, which potentially invalidated test results. It is not clear if testing exceptions were documented and presented to stakeholders to allow an informed decision on the go-live readiness of the new system;
- The elimination of user acceptance testing, which created a chain of events including a lack of familiarization for the billing department and customer service department. The report mentions several times that CMP had inadequate or non-existent testing procedures prior to the go-live date of the new CIS. It is not clear from the report whether Liberty reviewed documentation that outlined the limited test results or whether Liberty obtained this information through discussion with various CMP personnel;
- The report does not assess the root cause of bill presentment defects that were identified both before and after go-live. It is not clear if Liberty is stating that of the 12 customer accounts that CMP tested, it identified 11 defects. If so, this should have caused a red flag and a pause to the go-live date to allow additional testing;
- The report chronicles multiple indicators that the new CIS had flaws based on the lack of testing requirements, inaccurate and inconsistent status reports, lack of staff, loss of knowledge through early retirements and more. CMP disregarded these warning signs and pushed forward with the go-live date at the end of October;
- Liberty was unable to identify, through CMP's own records, who made the final decision on the go-live cutover. After two years of planning and preparation,

there is no documentation to show the go-live readiness. Liberty reports that the last status report was created on October 13, 2017, two weeks prior to the cutover;

- The report describes CMP's staffing shortages and the effect these shortages had on the implementation of the new CIS system as well as the chaotic post go-live period when thousands of customers were calling to complain. The report notes CMP's "puzzling" decision to offer retirement packages to key personnel in the middle of this project, as well as its troubling delay in filling customer service positions in a timely fashion. The report fails, however, to document CMP's decision-making process for its staffing decisions;
- The report concludes that the customer billing issues are based on a variety of issues, including an increase in the standard offer rate, colder weather, extended storm outages, as well as understaffing and inadequate training of customer service staff. It is not clear from the report, however, whether any of these specific reasons are the cause of the initial 2,290 customer complaints or whether the billing issues for these customers have been corrected.
- The report states that "CMP has also not been conducting root cause analysis on the complaints received. Nor has CMP instituted a process to categorize and analyze complaints aside from the categories that are assigned by the CAD upon referral." This finding is troubling considering the process that CMP agreed to follow in accordance with the directive of the Commission's Consumer Assistance and Safety Division director in February of 2018 to respond to complaints.⁵

Based upon the OPA's and BerryDunn's initial review, the investigation of the problems, at this point, is far from complete. For example, it is not clear from the report whether Liberty tested the new billing system itself to validate end-to-end transactions from the meter to issuance of a customer's bill. The OPA and BerryDunn consider this to be a crucial means of identifying the existence of problems as part of a forensic examination. To identify whether the Liberty audit identified the root cause of customer

⁵ Letter of Derek D. Davidson, Director, Consumer Assistance and Safety Division, Maine PUC, to Douglas Herling, CMP (Sept. 21, 2018) filed in CMS ("Under this process, when the CASD receives a customer complaint of high usage, the CASD forwards the complaint to the specialized team, which in turn review the customer's account to ensure that bills are accurate and attempts to ascertain the cause of the high bill.").

complaints regarding billing errors, the Commission must understand whether the procedures included end-to-end testing of individual customer bills – for customers who filed complaints but also for customers at large.

Importantly, many of these issues remain unresolved, demanding further investigation and action by the Commission. The Liberty Report indicates ongoing problems with the system and the need for management to continue remedial work and deal with the backlog.⁶ But the report fails to deal with the fact that complaints continue up to the present day. The Commission’s CMS website receives almost daily complaints from CMP customers who are still experiencing extremely high bills for usage they believe is not accurate. The public comments filed on CMS number more than 320, most of which are from customers who have experienced extremely large increases in their bills or other billing anomalies for which there is no explanation. These comments have been steady since the docket was opened in February of 2018.

In fact, recent complaints from December of 2018 note continuing problems with billing. For example, on December 28, 2018, a customer filed an extensive comment describing the problems he has had with bill estimates that have varied from \$26 per month to \$1,100 per month. This customer wrote that CMP had a meter reader present at his property for each of the months in issue but he is still only receiving bills with obviously inaccurate estimates and not bills based on actual readings. That same day, another customer filed a public comment stating “I would just like CMP to start sending

⁶ See, e.g., Liberty Report at 84-85, noting that as of September, 2018, 8,000 delayed bills were still awaiting field action and that CMP expects “backlogs and delays in issuing bills is expected to continue through April 2019”; Liberty Report at 97 “A year after go-live finds CMP still reporting customer-affecting errors.”

me my monthly bill. It's been almost a year since I received a bill.” The public comments document numerous instances of customers’ continuing frustration with their inability to obtain accurate bills – or any bills at all – from CMP.

The issues raised in the Liberty Report present serious questions regarding the prudence of CMP’s decision-making with respect to the implementation of the new CIS system. Prudence is defined by the Commission as the “course of conduct that a capably managed utility would have followed in light of existing and reasonably knowable circumstances.”⁷ An investigation into the prudence of management decisions is difficult and can be time-consuming. The stakes for the utility and for its customers are very high.

The OPA retained BerryDunn with the expectation of earlier involvement with the audit itself, an expectation that was not met. Having now reviewed the report and with the benefit of initial consultation with BerryDunn, the OPA considers the investigation to be incomplete, as noted above. There are many more facts that need to be discovered, and analyses to be completed before the Commission and the public can understand the underlying reasons for the problems CMP and its customers began experiencing over a year ago, some of which remain unresolved. Completing these tasks will take time, and that is before any presentation in the form of proposed outcomes can be developed, presented and then litigated. This is not the kind of investigation that can be conducted and completed within the confines of the pending rate case.

⁷ *Maine Public Utilities Commission*, Investigation of Seabrook Involvements by Maine Utilities, Docket No. 84-113 (Phase II) Order at 12 (Me. P.U.C. May 28, 1985).

An investigation separate from the rate case proceeding would also afford the Commission the opportunity to hear from customers directly about their billing and customer service issues. Section 1303(2) provides:

If after the summary investigation, the Commission is satisfied that sufficient grounds exist to warrant a formal public hearing as to the matters investigated, it shall give the interested public utility written notice of the matter under investigation. Seven days after the commission has given notice, it may set a time and place for a public hearing. The hearing shall be held in accordance with section 1304.⁸

The Liberty Report raises more than sufficient grounds for the Commission to call for a public hearing and to continue the investigation in a proceeding that is separate from the ongoing investigation of CMP's rates. The OPA and other stakeholders must be afforded the opportunity to explore issues raised, and not raised, in the Liberty Report in a full adjudicatory proceeding, which will involve questions that go beyond those raised in a rate proceeding, including the question of whether CMP acted in a prudent manner. Prudence determinations are best handled outside of a rate proceeding, particularly in a case like this where the problems are extensive and ongoing.⁹

While there may be rate implications that flow from such an investigation, the continuing customer service aspects of this case will require extensive attention and remedial action that goes beyond the confines of a rate proceeding. In addition, the rate

⁸ 35-A M.R.S. § 1303(2).

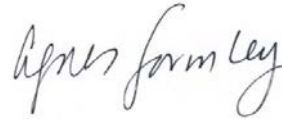
⁹ See, e.g., *Emera Maine*, Investigation of Inclusion of Acadia Substation in Rates Pertaining to Emera Maine, Docket No. 2017-00018, Order at 3 (Me. P.U.C. June 25, 2018), in which the Commission initiated an investigation pursuant to section 1302(d) relating to the company's handling of the costs associated with the building of a substation.

case is on a tight scheduling track to be concluded by August 2019.¹⁰ Investigation of the significant issues raised by the Liberty Report cannot reasonably be accommodated in that schedule.

WHEREFORE, the Office of the Public Advocate respectfully requests the Commission ORDER a follow-up investigation into CMP's metering, billing and customer service issues in response to the Liberty Investigation.

January 4, 2019

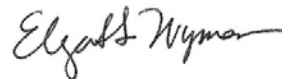
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Agnes Gormley".

Agnes Gormley
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A handwritten signature in blue ink, appearing to read "Eric J. Bryant".

Eric J. Bryant
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A handwritten signature in black ink, appearing to read "Elizabeth J. Wyman".

Elizabeth J. Wyman
Senior Counsel

¹⁰ *Central Maine Power Company*, Commission Initiated Investigation into Rates and Revenue Requirements, Docket No. 2018-00194, Procedural Order (Me. P.U.C. Oct. 4, 2018).